

### C. REMARKS

In the Office Action of 18 June 2004, claims 22-24, 27-29, 36-38, 47, 49, and 51 were rejected under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 5,383,829 to *Miller* in view of U.S. Patent No. 4,700,946 to Breunig; claims 22, 23, 27-29, 36-38, 47, 49, and 51 were rejected under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 5,383,829 to *Miller* in view of U.S. Patent No. 5,382,209 to *Pasier et al.* Claims 25, 26, and 48 have been allowed. Applicants appreciate the Examiner's statement that claims 25, 26 and 48 are allowed.

In response to the Office Action, independent claims 22 and 47 have been amended to further clarify the claimed invention, utilizing much of the language of allowed claims 25, 26, and 48.

U.S. Patent No. 5,383,829 to *Miller* describes an exercise device includes a pair of foot engaging links. The first end of each link is supported for rotational motion about a pivot axis and a second end of each foot link is guided in a reciprocal path of travel. The combination of these foot link motions permits the users foot to travel in an inclined, oval path of travel. This natural foot action exercises a large number of muscles through a wide range of motion. The Office Action admits that this reference does not describe means for height adjustment.

The Office Action attempts to compensate for the failings of *Miller* with two references. U.S. Patent No. 4,700,946 to *Breunig* ("*Breunig*") describes an exercise device that comprises a base, a track mechanism pivotally mounted to the base, and a structure for supporting the user. The support structure is mounted to the track mechanism for linear displacement along the track mechanism at a generally constant orientation with respect to the base. The exercise device also comprises an arrangement interconnected between the track mechanism and the base for varying the angle between the track mechanism and base without varying the orientation of the support structure with respect to the base. Further, the exercise device comprises a post assembly attached to the base. The post assembly includes a post for mounting at least one exercise apparatus and a mechanism for adjusting the distance between the mounting post and the track mechanism. *Breunig* basically shows a wheelchair mounted on inclined ramps. The slope of the ramps can be changed, but only for the purpose of altering the resistance level encountered by the user in attempting to move the wheelchair up the ramps.

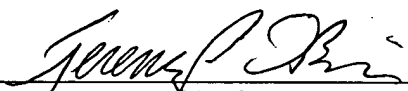
U.S. Patent No. 5,382,209 to *Pasier et al.* ("*Pasier*") describes an apparatus for adjusting inclination of an exercise machine. A front portion of a pyramid-shaped base has a pair of steps. Each step has a recessed area that receives the leg of an exercise machine. A connecting member between the front portion of the steps increases stability of the apparatus. The purpose of the steps is simply to alter the amount of work expended by the user of the device.

The present invention, on the other hand, is directed towards simulating different types of stepping motions. As such, in the present invention the resistance level of the device is adjusted by an eddy current brake and not by the elevation system.

Therefore, it is respectfully submitted that all of the claims recite patentable subject matter and are in condition for allowance. Accordingly, favorable reconsideration and allowance of the application is respectfully requested.

Respectfully submitted,

Date 18 October 2004  
Precor Incorporated  
Amer Sports North America  
8700 W. Bryn Mawr Avenue  
Chicago, IL 60631

By   
Terence P. O'Brien  
Attorney for Applicants  
Registration No. 43,840

Telephone: (773) 714-6498  
Facsimile: (773) 714-4557